IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5304 OF 2005

Raghunath Bhagvanta Taware
and ors. .. Petitioners.

Vs

Milind Kundalik Pokale and ors. .. Respondents

Mr A.P.Parlikar, for the petitioners.
Mr N.C.Walimbe, for respondent nos 1 and 2.

CORAM : D.B.BHOSALE,J.
DATE : 05.09.2006

PC:

1. Heard the learned counsel for the parties.

2. By this writ petition, the petitioners have impugned the order dated 15.1.2005 rejecting the application at Exhibit-205 filed by the petitioner who is defendant no.32 in the suit. The said application was filed under Order 6, rule 16 read with Order 22 rule 4 of the Code of Civil Procedure objecting to the written statement filed by the heirs of the original defendant no.1. According to Mr.Parlikar, learned counsel for the petitioners, the heirs of the deceased-defendant have filed the additional written statement changing the very nature of the defence that was taken by the deceased defendant. In my opinion, the order impugned is inter-locutory in nature and, it would be open for the petitioners to raise all contentions in

the further proceedings after disposal of the suit. Moreover, the plaintiffs in the suit did not raise such objection. In any case, I would not like to examine the merits of the contentions which would be considered in the further proceedings after disposal of the suit. This petition is disposed of with liberty to the petitioners to raise all contentions and also rely upon the judgment of the Supreme Court in Bal Kishan, Vs Om Parkash and Anr, AIR 1986 Supreme Court 1952 at an appropriate stage.

(D.B.BHOSALE,J.)